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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,301	07/31/2003	Dennis Chisum	L8382-01005	2628
7590	09/09/2005			
Robert A. Seldon 18th Floor 10940 Wilshire Blvd. Los Angeles, CA 90024-3952			EXAMINER GANNEY, STEVEN J	
			ART UNIT	PAPER NUMBER
			3752	

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/631,301

Applicant(s)

CHISUM ET AL.

Examiner

Steven J. Ganey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claims 5 and 6 are objected to because of the following informalities: In claim 5, line 4, the word “first” should be deleted, since there is only one longitudinal axis in the body. In claim 5, line 13, the upper case “A” should be changed to a lower case --a--. In claim 5, line 15, the word “second” should be deleted since the remainder of the claim refers this limitation as “longitudinally extending passageway of the insert”. In claim 5, line 16, the phrase --of the insert-- should be inserted after the word “passageway”. In claim 5, line 21, the phrase “downst ream” should be changed to --downstream--. In claim 5, line 23, the upper case “A” should be changed to a lower case --a--, the phrase “longitudinal-extending” should be changed to --longitudinally extending-- and the phrase --of the insert-- should be inserted after the word “passageway”. In claim 5, line 25, the phrase “longitudinally-extending” should be changed to --longitudinally extending--. In claim 5, line 26, the upper case “A” should be changed to a lower case --a--. In claim 5, line 27, the word “first” should be deleted since there is only one housing claimed. In claim 6, line 10, the word “second” should be deleted since the remainder of the claim refers this limitation as “longitudinally extending passageway of the insert”. In claim 6, line 10, the phrase --of the insert-- should be inserted after the word “passageway”. In claim 6, line 16, the phrase “downst ream” should be changed to --downstream--. In claim 6, line 20, the upper case “A” should be changed to a lower case --a--, the phrase “longitudinal-extending” should be changed to --longitudinally extending--. In claim 6, line 21, and the phrase --of the insert-- should be inserted after the word “passageway”. In claim 6, line 22, the phrase

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“longitudinally-extending” should be changed to --longitudinally extending--. In claim 6, line 23, the upper case “A” should be changed to a lower case --a--. In claim 6, lines 32 and 40, the phrase “an abrasive jet nozzle” should be changed to --the abrasive jet nozzle-- since a limitation was already introduced in line 13. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 6-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 6, line 23, the phrase “a radially-extending passageway into” is indefinite since it does further describe where the passageway goes into.

In claim 7, the steps of “inserting the insert into the housing” and “securing the abrasive jet nozzle” lack antecedent basis since these steps have not been previously claimed.

In claim 8, the “step of securing” lacks antecedent basis since it has not been previously claimed and the remainder of the claim does not further limit the claim since it was previously claimed under section “(C)” of claim 6.

Claim 10 is indefinite since it appears to be claiming the same method step as recited in section “(A)(1)(b)” and does not further limit the claim.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claim 5 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-15 of U.S. Patent No. 6,601,783 in view of Zeng. U.S. Patent No. 6,601,783 claims all the featured elements of the instant application except for the teaching of the outer surface of a portion of the upstream end of the abrasive jet nozzle is flush with at least a portion of the inner surface of the insert in the region of the insert's downstream surface and at least a portion of the outer surface of the insert being flush with at least a portion of the inner surface of the housing for laterally securing the insert within the housing. Zeng discloses an abrasive jet assembly comprising all the featured housing with a body 30; a jet forming insert 50; a jet forming orifice 72; a radially-extending passageway 56; a means for securing 82 and a portion of the upstream end of the abrasive nozzle 80 flush with a portion 67 of the insert and at least a portion 52/54 of the outer surface of the insert being flush with at least a portion of the inner surface of the housing for laterally securing the insert within the housing. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the above limitations in the apparatus of U.S. Patent No.

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6,601,783, since such modifications would provide proper alignment of the jet insert and abrasive nozzle in the jet assembly.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 5-10 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Zeng.

Zeng discloses an abrasive jet assembly comprising all the featured housing with a body 30; a jet forming insert 50; a jet forming orifice 72; a radially-extending passageway 56; and a means for securing 82. The apparatus of Zeng is assembled according to the method steps claimed.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dale, Hashish et al '085, Warehime, Massa et al, Yie, Chalmers, Hashish et al '766, Hashish et al '289, Munoz and Xu.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven J. Ganey whose telephone number is (571) 272-4899.

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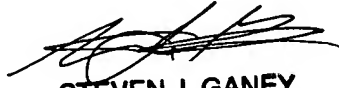
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The examiner can normally be reached on Monday, Tuesday, Wednesday, and Thursday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel, can be reached on (571) 272-4919. The fax phone number for this Group is (571) 273-8300.

sjg

9/2/05


STEVEN J. GANEY
PRIMARY EXAMINER
9/2/05